

**PROGRAM OPPORTUNITY NOTICE**  
**FOR**  
**KATZ SAFE SCHOOL BUS**  
**DEMONSTRATION PROGRAM**  
**Phase 5**



**PON 600-03-602**  
**March 2004**

# TABLE OF CONTENTS

## WELCOME LETTER

<b>INTRODUCTION</b>	<b>1</b>
What is the Katz School Bus Demonstration Program?	
Who Can Apply for the Program?	
<b>Phase 5 Key Activities and Dates</b>	<b>2</b>
How Does My School District Qualify for Phase 5?	
How Will School Districts be Selected for Participation?	
<b>How does the School District Benefit?</b>	<b>3</b>
What Type of Bus Will Be Available in Phase 5?	
What Should My Application Include?	
How Do I Deliver My Application?	
<b>Where Do I Deliver My Application?</b>	<b>4</b>
How Many Copies Do I Submit?	
Who Do I Contact for Administrative Questions?	
Who Do I Contact for Technical Questions?	
<b>FUNDING ALLOCATIONS</b>	<b>5</b>
School Bus Price List	
Payment	
Disbursement of Funds	
Bus Replacement Requirements	
<b>SCORING CRITERIA</b>	<b>6</b>
General Information, Conditions and Instructions	
Katz Bus Program	
<b>APPLICATION PACKAGE (Must be complete)</b>	
Bus Replacement Information Form	<b>11</b>
Old Bus List Form	<b>12</b>
New Bus Requested List Form	<b>13</b>
Infrastructure Form	<b>14</b>
Sample Board Resolution	<b>15</b>
<b>List of Buses and Bus Pricing (Attachment 1)</b>	<b>A-1</b>
<b>Sample Contract (Attachment 2)</b>	<b>A-2</b>

**CALIFORNIA ENERGY COMMISSION**

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

**TO: LOCAL EDUCATIONAL AGENCIES**

The California Energy Commission (Energy Commission) is pleased to announce Phase 5 of the Katz Safe School Bus Clean Fuel Efficiency Demonstration Program, a program authorized by Chapter 1426, Statutes of 1988. For Phase 5, the Energy Commission has \$1.9 million in funds available for the replacement of pre-1977 school buses.

Since 1988 the Energy Commission has conducted a school bus demonstration program that has replaced over 800 older, higher polluting school buses with new, lower-emission school buses which meet or exceed current federal safety standards. To achieve this objective, the Energy Commission will provide Petroleum Violation Escrow Account funds to local educational agencies that operate publicly owned school buses to purchase new school buses as part of this state sponsored demonstration.

For Phase 5, the Energy Commission releases this Program Opportunity Notice (PON) requesting local educational agencies to participate in a demonstration of alternative fuel school buses. Please carefully read the attached document that explains the program and evaluation criteria before completing the application.

Sincerely,

SUSAN J. BROWN, Manager  
Transportation Technology Office

**CALIFORNIA ENERGY COMMISSION**

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512  
[www.energy.ca.gov](http://www.energy.ca.gov)



## **INTRODUCTION**

### **WHAT IS THE KATZ SCHOOL BUS DEMONSTRATION PROGRAM?**

In 1988, the legislature passed AB 35 (Chapter 1426, Statutes of 1988) that established the Katz Safe School Bus Clean Fuel Efficiency Demonstration Program (School Bus Demonstration Program). This legislation requires that the Energy Commission conduct a demonstration of new, energy efficient school buses that meet or exceed current standards of safety. Existing law further specifies that demonstration buses replace buses manufactured prior to April 1, 1977.

This Program Opportunity Notice (PON) intent is to ensure that replacement school buses purchased with these funds are manufactured to higher safety and emission standards than the buses being replaced. The replaced buses must be destroyed, and proof of destruction must be submitted to the Energy Commission before reimbursement of the new bus is made. By accepting a replacement school bus, a local educational agency (school district) agrees to participate in the demonstration program. Another purpose of the program is to further develop transportation technologies with engines that are more efficient, produce fewer tail pipe emissions, and promote the use of alternative fuels in school bus and other medium- and heavy-duty applications.

Under this demonstration program school districts will be required to keep accurate daily records of operating and maintenance costs for a five (5) year period of the new school buses. Because this program uses advanced technology, school districts may incur unanticipated costs due to unforeseen events, such as extra maintenance, repair service or bus unavailability. School districts may also find occasional problems with infrastructure preventing refueling.

### **WHO CAN APPLY FOR THE PROGRAM?**

Local educational agencies defined as a school district, a county office of education, a regional occupation program or center, or a joint powers agency which operates publicly owned pre-April 1977 school buses are eligible for this program. Individual agencies may join to form a consortium to apply. Pre-April 1977 buses must have been used in pupil transportation services during the 2001 to 2004 school years, up to and including March 1, 2004, to be eligible to participate in the program.

We will not consider privately owned transportation firms and companies for the program, since by law (Education Code Section 17911.2) they fall outside the group of eligible entities.

## KEY ACTIVITIES AND DATES

Key activities and times for this PON are presented below. This is a tentative schedule, please call the Contracts Office to confirm dates.

ACTIVITY	DATE
Release PON	March 17, 2004
Workshop – El Monte	March 29, 2004
Workshop –Sacramento	March 30, 2004
Deadline to Submit Applications	April 22, 2004
Notice of Proposed Awards	April 29, 2004
Commission Business Meeting	June 30, 2004
Contract Start Date	June 30, 2004
Order Buses from Distributors	August 1, 2004
New Buses Delivered	September 1, 2004
Contract Termination	March 31, 2006

### El Monte Workshop

Air Resources Board  
Annex 4, Auditorium, 1:00 p.m.  
9530 Telstar Avenue  
El Monte, CA 91731

### Sacramento Workshop

California Energy Commission  
1516 Ninth Street  
Hearing Room A, 10:00 a.m.  
Sacramento, CA 95814

## HOW DOES MY SCHOOL DISTRICT QUALIFY FOR PHASE 5?

Applicants must provide a complete application, addressing each criterion thoroughly. The Energy Commission encourages you to provide as much information as possible about your district and its fleet operations. Please respond succinctly and completely, and submit the original plus two copies of the entire application on or before the due date. Incomplete applications will not be accepted.

## HOW WILL SCHOOL DISTRICTS BE SELECTED FOR PARTICIPATION?

Energy Commission staff will evaluate and rank all applications and recommend preliminary selection decisions to the Energy Commission's Transportation Committee. The Committee will make the final determination. Applicants will then be notified of the evaluation results. An on-site evaluation and interview may be part of the selection process.

## HOW DOES THE SCHOOL DISTRICT BENEFIT?

Applicants have an opportunity to receive new school buses at little or no cost and replace inefficient, pre-April 1977 buses that do not meet current federal safety standards. Participating entities may add specific options to the buses they receive in order to be consistent with their existing fleet, but applicants must pay for any of these options. Relative to other Phases, Phase 5 will be rather small: approximately 19 buses are expected to be awarded.

## WHAT TYPE OF BUS WILL BE AVAILABLE IN PHASE 5?

For this Phase 5 solicitation, Applicants will be required to purchase a bus which meets the requirements of the old Department of General Services Bid #1-00-23-12. Applicants may need to release their own bid or use an existing school district's bid award.

## WHAT SHOULD MY APPLICATION INCLUDE?

**All** the forms included in the Application Package (listed below) must be completed and included in the application submitted to the Energy Commission.

- ✓ Application
- ✓ Form listing old buses to be replaced
- ✓ Form listing new buses
- ✓ Infrastructure form
- ✓ Copies of the on-board CHP certificate of each bus to be replaced
- ✓ Copy of insurance/self insurance and coverage card or letter
- ✓ Completed narrative, which includes a discussion on the Maintenance Capabilities, Personnel, Training, and Air Quality of the applying school district

**Please note**, if any of the above forms are not completed or presented with the application, the application will be rejected.

## HOW DO I DELIVER MY APPLICATION?

An Applicant may deliver an Application by:

- U. S. Mail;
- In person; or
- Messenger service.

All Applications must be delivered to the Commission's Contracts Office by 5:00 p.m. on April 22, 2004. If an Applicant chooses either of the last two methods, delivery of all copies prior to 5:00 p.m. on April 22, 2004, must be made during normal business hours of 8:00 a.m. – 5:00 p.m., Monday through Friday. E-mail

and facsimile (FAX) transmissions WILL NOT be accepted in whole or in part under any circumstances.

#### **WHERE DO I DELIVER MY APPLICATION?**

California Energy Commission  
1516 Ninth Street, 1<sup>st</sup> Floor  
Contracts Office, MS-18  
Sacramento, California 95814

#### **HOW MANY COPIES DO I SUBMIT?**

Mail or deliver an original Application and two (2) copies to the address given above. The Applicant must submit the applications in a sealed envelope labeled Phase 5, Katz School Bus Program, Program Opportunity Notice, No. 600-03-602.

#### **WHO DO I CONTACT FOR ADMINISTRATIVE QUESTIONS?**

Elizabeth Stone, Contract Officer  
California Energy Commission  
1516 Ninth Street, MS-18  
Sacramento, California 95814  
Telephone: (916) 654-5125  
[estone@energy.state.ca.us](mailto:estone@energy.state.ca.us)

#### **WHO DO I CONTACT FOR TECHNICAL QUESTIONS?**

Sandra Fromm, (916) 654-4651  
[sfromm@energy.state.ca.us](mailto:sfromm@energy.state.ca.us), or

Mike Trujillo, (916) 654-4566  
[mtrujillo@energy.state.ca.us](mailto:mtrujillo@energy.state.ca.us)

## **FUNDING ALLOCATIONS**

### **School Bus Price List**

Attachment 1 contains a pricing schedule for natural gas school buses. Kevlar seats and fire suppression are not included in these prices. The Energy Commission will pay for fire suppression but not Kevlar seats. This schedule is not a bid but a guide to indicate the maximum amount the Energy Commission will pay for a comparable bus.

### **Payment**

The Energy Commission's portion of the school bus funding shall be paid directly to the school district and include sales taxes. Energy Commission funds will be paid at the time of bus delivery and acceptance by the school district. School districts are required to reimburse the bus manufacturer. The Energy Commission will not contribute any funds toward installation or upgrade of infrastructure.

### **Disbursement of Funds**

**School districts must provide proof of vehicle delivery, proof of insurance (naming the Energy Commission as additional insured), and a bus destruction certificate at the time request for payment is made.** In order to expedite payment, all reimbursement requests must be received no later than ten (10) days after the date the school district receives the bus. The bus vendor may charge the school district late penalties and interest if the school district does not pay the vendor in a timely fashion.

### **Bus Replacement Requirements**

Only replacement buses will be funded. Fleet expansion buses are not eligible for funding. All new buses must have a manufacturer Gross Vehicle Weight Rating (GVWR) greater than 14,000 pounds and must be powered by a heavy-duty engine (CARB classification).

The program emission criterion will require the school bus engines meet a 1.8 g/bhp-hr optional, reduced-emission NOx plus NMHC standard and to a 0.03 g/bhp-hr optional, reduced-emission PM standard.



# **PLEASE READ THIS DOCUMENT CAREFULLY**

## **SCORING CRITERIA FOR PHASE 5**

### **Katz School Bus Demonstration Program**

#### **General Information, Conditions and Instructions**

The Katz Safe School Bus Clean Fuel Efficiency Demonstration Program is authorized by Chapter 1426, Statutes of 1988. For Phase 5, the Energy Commission has \$1.9 million in funds available for the replacement of pre-1977 school buses established. This program requires that the Energy Commission conduct a demonstration of new, energy efficient school buses that meet or exceed current standards of safety. AB 35 also specifies that the demonstration buses replace older, less safe, and more polluting publicly owned school buses manufactured prior to April 1, 1977.

Only those buses manufactured prior to April 1, 1977, and which were owned, certified and in service during the 2003/04 school year are eligible for consideration for Phase 5 of this program (Section 17911.1 (a) Education Code). Candidate buses must have proof of certification for the last three annual certifications and the odometer reading for each of those dates (Section 17911.4 (d) Education Code).

#### **Who is Eligible to Bid?**

Throughout this document, reference may be made to an applicant, a school district or a local educational agency. This means any of the following: a school district, a county office of education, a regional occupation program or center, or a joint powers agency which operates publicly owned school buses (Section 17910.1 (g) Education Code). As specified in the California Education Code, these are the only educational agencies eligible to participate in this program.

A consortium of school districts meets the definition of school district. For this Program Opportunity Notice a consortium is a group of public school districts which enter into a binding written agreement to participate as a unified entity in the Katz Safe School Bus Clean Fuel Efficiency Demonstration. The consortium has a single contact person who acts as the lead for the consortium and is normally the contact person for Energy Commission staff.

Applicants can use a consortium as an option when the resources of one or more school(s) offset resource limitations at one or more other schools. An example is one school that has a large percentage of pre-April 1977 school buses, but lacks a state-of-the-art maintenance facility. Such a school could join forces with another school that has modern maintenance facilities and a small percentage of pre-April 1977 buses.

Buses replaced in this program must be destroyed and proof of destruction must be submitted to the Energy Commission before reimbursement will be made.

## PLEASE READ THIS DOCUMENT CAREFULLY

All school buses under this demonstration program must meet applicable Federal Motor Vehicle Safety Standards commencing April 1, 1977, (Section 17912.3 Education Code).

### Scoring Criteria

The scoring criteria presented in this document satisfy the requirements of Sections 17911.2, 17911.3, and 17911.4 of the Education Code.

Energy Commission staff will evaluate and score proposals based on their content and response to scoring criteria. Only one bus will be awarded to a school district.

Applicants shall respond in a concise and clear manner, and provide sufficient narrative detail where warranted. Energy Commission staff will score proposals on the substance of the response as it relates directly to the criterion. Applicants must complete all the forms included with this package, and provide only documented and verifiable information. Energy Commission staff may conduct site visits to clarify and verify the information provided in this application.

Application	<b>10 points</b>
Infrastructure Form	<b>15 points</b>
Old Bus Form (CHP certificates verifying mileage must be attached to the application)	<b>50 points</b> for buses that have traveled over 15,000 miles per year. <b>30 points</b> or buses that travel 12,000-14,999 miles per year. <b>10 points</b> for buses that travel 1,000-11,999 miles per year <b>0 points</b> for buses traveling 0-999 miles per year.
Old bus total lifetime mileage	<b>50 points</b> if mileage is 500,000 miles or greater. <b>30 points</b> if mileage is 300,000 – 499,999 miles. <b>10 points</b> if mileage is 100,000 – 399,999 miles. <b>0 points</b> is mileage is less than 99,999 miles.
Maintenance Capabilities	<b>25 points</b>
Personnel	<b>25 points</b>
Training	<b>15 points</b>

# PLEASE READ THIS DOCUMENT CAREFULLY

## Katz Bus Program

The criteria below require a narrative response. Energy Commission staff will determine if a site visit is warranted.

### A. Maintenance Capabilities

Applicants must include copies of their CHP terminal inspection report (CHP Form 343) for the last three years (2001-2003). If the school district has more than one maintenance facility, or if a consortium is applying, applicants must provide copies of the CHP terminal inspection reports for each proposed Phase 5 maintenance facility.

Describe the following in detail:

- On-going maintenance support of the district's current fleet;
- Ability of the transportation and maintenance staff to meet the demands of an efficient transportation operation, and the manner in which it is accomplished;
- The effective use of resources (both within and outside the school district);
- How the district complies with the California Highway Patrol (CHP) certification. Copies of CHP terminal inspection reports for the last three years must be included with the application package.

### B. Personnel

Answers provided for this section should address mechanic staffing levels, type of training and expertise.

- Describe your maintenance personnel's qualifications;
- Provide a transportation maintenance organization chart, identifying formal lines of authority and indicating any unfilled positions;
- Provide a written job description for each position in the transportation maintenance department listed on the organization chart;
- Describe experience using alternative fuels;
- Describe how fuel and oil consumption are tracked.

### C. Training

## PLEASE READ THIS DOCUMENT CAREFULLY

Answers provided for this section must address the applicant's technical and safety training program for its transportation personnel. ***Driver turnover and accident rate are important in evaluating this criterion.*** Please provide the following information for the 2001-2003 school years:

- Describe your training program for mechanics, drivers and related transportation maintenance staff;
- Provide all information related to driver turnover and accident rates;

### **D. Demonstration Management/Record Keeping**

Answers to this section must address the level of efficiency and accuracy in maintenance records-keeping for all buses, especially for pre-1977s, and the history of CHP certifications and repairs in response to certification discrepancies. Because this is a demonstration program, extensive explanation of the transportation department record keeping is required to track the history and performance of the demonstration buses (Section 17912.2 Education Code). Energy Commission staff will evaluate all aspects of the existing transportation operation in order to select only those candidates with outstanding qualities in each of the areas detailed below. Applicants should respond in a detailed narrative manner.

- Describe the district's methods to manage bus routes, drivers, bus fueling and maintenance data;
- Describe the infrastructure and maintenance facilities, with emphasis on an efficient, safe and secure environment;
- Describe the bus maintenance tracking system used to maintain vehicle maintenance histories (including warranty repairs), and whether or not the tracking system is computerized or manual;
- Describe the procedures for bus repairs, from initial write-up of the discrepancy to resolution.

# KATZ SCHOOL BUS PROGRAM



## APPLICATION PACKAGE

### Phase 5

**Katz School Bus Program  
Bus Replacement Application**

1. School District Name: \_\_\_\_\_
2. Street Address: \_\_\_\_\_
3. City: \_\_\_\_\_ County \_\_\_\_\_
4. Zip \_\_\_\_\_
5. Air District Jurisdiction Name: \_\_\_\_\_
6. School District Federal Tax I.D. #: \_\_\_\_\_
7. Contact Person:
  - ❖ Name/Title/Position: \_\_\_\_\_
  - ❖ Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_
  - ❖ E-Mail Address: \_\_\_\_\_

## Katz School Bus Program

### Old Bus to be Replaced and Destroyed

**Please note - The application must include a copy of the CHP certificate for each bus listed.**

Year Built	VIN Number	Type C, D	GVWR	Fuel Type	Miles Traveled 2003	Miles Traveled 2002	Miles Traveled 2001

Note: Please provide the following information for each bus to be replaced.

- Bus type C is a conventional bus (engine in front of the windshield)
- Bus type D is a transit type (engine is behind windshield, or between axles or behind rear axles).
- GVWR is the gross vehicle weight rating.

**Attach to this application a copy of the California Highway Patrol Bus Certificate for the last three years for each bus listed to be replaced/destroyed.**

## Katz School Bus Program

### New Bus Requested

DGS #	Manufacturer	Chassis Model	Type C, D	GVWR	Bus Base price	Fire Suppression If requested.

Note: Please fill one row for each bus to be replaced (mixed fuel acceptable on same sheet).  
All DGS information must be from price list summary.

- Base price shall include the costs of the fuel and seat belt options
- Bus type C is a conventional bus (engine in front of the windshield)
- Bus type D is a transit type (engine is behind windshield, or between axles or behind rear axles).



**Katz Bus Program**  
**Infrastructure Form**  
**(Requires Completion by the School District)**

***The Energy Commission will NOT contribute any funding toward the installation of alternative fueling stations for Phase 5***

***Off-Site Fueling Facility:***

1. Local utility company name: \_\_\_\_\_
2. Distance to nearest CNG fueling station (in miles): \_\_\_\_\_
3. Is fueling facility public or privately owned: \_\_\_\_\_
4. Number of fueling positions: \_\_\_\_\_

***On-Site Fueling Facility:***

1. Size of compressor or electric charger (in CFM/ kw): \_\_\_\_\_
2. CNG, LNG, or LPG storage capacity (gallons): \_\_\_\_\_ gallons
3. Number of alternative fuel buses presently on site: \_\_\_\_\_
4. Number of fueling positions: \_\_\_\_\_
5. Specify gas pressure and voltage available at fuel site: \_\_\_\_\_
6. Specify if facility is fast fill or slow fill: \_\_\_\_\_

(SAMPLE)

**BOARD RESOLUTION**

**Smith Unified School District**

**1234 Johnson Blvd**

**Bakersfield, CA 97643**

**Telephone: 566 897 5432-Fax 566 897 5433**

Board of Trustees: (list names)

Superintendent Name:

**RESOLUTION # XXXX**

**Whereas:** Funds have been appropriated to the California Energy Commission (Energy Commission) through Assembly Bill 35 (Chapter 1426, Statutes of 1988) for the Katz Safe School Bus Clean Fuel Efficiency Demonstration Program.

**Whereas:** Smith Unified School District has qualifying school buses manufactured prior to 1977

**Now, therefore, be resolved,** that the Smith Unified School District Board of Trustees authorize the superintendent.... To apply for the Low Emission School Bus Program...and if successful.....enter into a contract with the California Energy Commission...

**Be it also resolved,** that the superintendent of Smith Unified School District is hereby authorized and empowered to execute in the name of Smith Unified School District all necessary documents to implement and carry out the purpose of this resolution.....

**Date Approved:** Thursday, April 8, 2004

Ayes: 3

Noes: 4

Abstain: 1

Absent: 6

---

Clerk Name,

Board of Trustees

## Attachment 1 - DGS Price List

**All buses purchased in this program must be 14,000 pounds or greater**

**These prices are to be used as a guide only and do not necessarily indicate what purchaser may pay for a new school bus.**

Prices are based on the old Department of General Services Bid #1-00-23-12 and reflect the **MAXIMUM** amount the Energy Commission will pay for a similar bus.

DGS	Supplier					Chassis	Lbs	Mfg.	Mfg.	Total
Item#	Number	Dealer	Bus Type	Bus Use	Engine	Model	GVWR	Chassis	Body	Price \$
8	194980	AZ Bus sale	Type D	Transit	CNG	2409	20000	BB	BB	<b>\$92,788.52</b>
9	194980	AZ Bus sale	Type D	Transit	CNG	2504	21000	BB	BB	<b>\$93,265.52</b>
10	194980	AZ Bus sale	Type D	Transit	CNG	2803	25500	BB	BB	<b>\$95,267.52</b>
11	194980	AZ Bus sale	Type D	Transit	CNG	3000	26500	BB	BB	<b>\$100,035.52</b>
12	194980	AZ Bus sale	Type D	Transit	CNG	3211	27500	BB	BB	<b>\$102,002.52</b>
13	194980	AZ Bus sale	Type D	Transit	CNG	4308	27500	BB	BB	<b>\$108,306.52</b>
14	194980	AZ Bus sale	Type D	Transit	CNG	3707	30000	BB	BB	<b>\$109,464.52</b>
17	194980	AZ Bus sale	Type D	Transit	CNG	3904	36200	BB	BB	<b>\$131,276.00</b>
18	194980	AZ Bus sale	Type D	Transit	CNG	3905	36200	BB	BB	<b>\$131,900.00</b>
33	666089	Calif Bus sales	Type D	Transit	CNG	140HS	34000	Thomas	Thomas	<b>\$127,340.00</b>
34	666089	Calif Bus sales	Type D	Transit	CNG	140HS	34000	Thomas	Thomas	<b>\$127,334.00</b>
35	666089	Calif Bus sales	Type D	Transit	CNG	140HS	36200	Thomas	Thomas	<b>\$127,142.00</b>
36	666089	Calif Bus sales	Type D	Transit	CNG	140HS	36200	Thomas	Thomas	<b>\$127,334.00</b>

**Note 1: This is document is not a bid it is only a guideline indicating the maximum amount the Energy Commission will pay for a similarly equipped bus.**

**Note 2: Kevlar seat and fire suppression are not included in the above prices. If a school districts wish to have fire suppression on a CNG bus the Energy Commission will pay up to a maximum of \$4,000 for the addition of this item.**

	<b>Dealer #</b>		<b>Dealer Name</b>		<b>Address</b>					
	194980		AZ Bus Sales Inc.		POBox 700, CA 92324			Colton		
	666089		California Bus Sales & Services Center		2716 Cherry Av., Ca 93706			Fresno		
	689963		West Coach Corp.		13790 Redwood Street, CA 9171			Chino		

AGREEMENT NUMBER  
**600-03-XXX**

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

State Energy Resources Conservation and Development Commission

CONTRACTOR'S NAME

**School District Name**

2. The term of this  
Agreement is:

3. The maximum amount  
of this Agreement is: \$

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work pages

Exhibit B – Budget Detail and Payment Provisions pages

Exhibit C\* – General Terms and Conditions for Interagency Agreements page

Check mark one item below as Exhibit D:

☒ Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) pages

☐ Exhibit - D\* Special Terms and Conditions

Exhibit E – Contacts page

*Items shown with an Asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.*

*These documents can be viewed at [www.dqs.ca.gov/contracts](http://www.dqs.ca.gov/contracts)*

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

**CONTRACTOR**

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

School District Name

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

School District Address

**STATE OF CALIFORNIA**

AGENCY NAME

State Energy Resources Conservation and Development Commission

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Cheryl Raedel, Contracts Office Manager

ADDRESS

1516 Ninth Street, Sacramento, CA 95814

**California Department of General  
Services Use Only**

☐ Exempt per:

## **EXHIBIT A SCOPE OF WORK**

### **PURPOSE**

The purpose of this contract is to provide funding to the \_\_\_\_\_ School District participating in the Katz Safe School Bus Clean Fuel Efficiency Demonstration Program. The school will replace pre- April 1977 school buses with a new safer, low emission school bus awarded to the district.

The following school bus has been awarded for Infrastructure funding under this contract:

Compressed natural gas (CNG) school bus:

#### **Task 1: Fueling Facility Installation to Support the School Bus Program:**

School Districts will have in place, install or cause to be installed any CNG refueling facilities or equipment as may be required to operate the awarded buses as specified in Section II, paragraph 14, “Fueling Station Standards”. Such refueling facilities shall be fully operational prior to the School District’s receipt of any replacement buses under this program. The Commission **will not** contribute funds toward installation of fueling stations for Phase 5.

#### **Task 2: Bus purchase:**

The Commission has established a bus cost schedule indicating the unit maximum cost based on DGS contract 1-00-23-12 specifications. If vendor price is lower than DGS contract, the Energy Commission cost–share will be based on the vendor lower price.

A School District, at its discretion, may order additional options and shall pay for such options. However, if any equipment or items are deleted from the DGS specifications the invoice must reflect what equipment or items were deleted and the vendor cost of those items. The cost of those items will be deducted from the bus per unit cost as identified in Exhibit E. School districts contribution to the cost of the bus shall include taxes and fees.

The school district shall keep ownership of the new bus for at least a period of five (5) years.

#### **Task 3: CARB Emission Requirement:**

School District shall be responsible to keep the emission control equipment of the bus in working condition. Buses shall meet emission requirements as defined by CARB in the Low Emission School Bus Guideline of December 7, 2000 School districts shall perform routine preventative maintenance at their cost in accordance with the manufacturer's suggested maintenance schedules. Emission control equipment and particulate traps breakdown or failures are expected to be repaired

under applicable manufacturer's warranty. School District may have to make buses available for emission and fuel economy testing as directed by CARB.

Task 4: Data:

School Districts shall notify the Energy Commission, by e-mail, of the date they ordered their buses. School districts shall notify the Energy Commission within 10 days of delivery and acceptance or rejection of the bus. Immediately after purchase and delivery of the buses, School District shall collect, process, compile, and send to the Energy Commission a completed "School Bus and Infrastructure Report" with itemized information as required below. The School District shall establish and maintain adequate procedures to collect and process this data.

School districts shall provide the following information upon acceptance of their buses. This information is requested by CARB for the purpose of tracking emission reduction.

Agency Identification

- Agency name:
- Street Address
- City
- County:
- Zip code
- Air District
- Tax Payer ID #.

Bus Identification (For each Old Bus identified in PON):

(Note: oldest buses in the fleet shall be first)

- Bus ID (school District):
- VIN No.:
- License No.
- GVWR:
- Manufacturer:
- Engine Manufacturer:
- Bus Type and Model:
- Chassis Model:
- Fuel Type:

Bus Identification (for each New Buses):

- Bus ID( school District):
- VIN No.:
- GVWR:
- Manufacturer:

- Engine Manufacturer:
- Bus Type and Model:
- Fuel Type:
- Bus price including all taxes and fees:

#### Infrastructures ( CNG)

Include all infrastructure and ancillary equipment purchased and provide the following:

- Local Utility Company Name:
- Infrastructure description (upgrade, new station, fast fill)
- Infrastructure itemized equipment
- Total Amount awarded in dollar:
- Distance to the fueling station
- Indicate if station is public or not:

#### Task 5: Old Bus Disposal:

Old school buses shall be destroyed no later than 30 days after delivery of new buses. The School District shall supply a Certificate of destruction to the Energy Commission no later than 10 days after destruction. Certificate shall indicate that the engine and bus has been destroyed.

#### Task 6. Fuel and Fuel Costs:

The school district shall assume the full cost of fuels and any incremental costs associated with fuels.

The school district is responsible for the installation and operation of the alternative fueling station unless the fueling station is a public station. All buses awarded under this program shall use fuels, fluids, transmission oil, crankcase oil, lubricants, etc., as specified by manufacturers in each manufacturer's owner and service manuals.

#### Task 7: Vehicle Maintenance:

The School District shall provide adequate facilities and equipment to properly maintain the school buses received under this program, according to manufacturers requirement and /or state requirements.

## EXHIBIT B

### Budget Detail and Payment Provisions

1. **INVOICING PROCEDURES:** For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractors Assignee for actual expenditures incurred in accordance with the rates specified herein, and made a part of this Agreement.

Invoices shall include the Energy Commission Agreement Number and shall be submitted in duplicate to:

California Energy Commission  
Accounting Office, MS-2  
1516 9<sup>th</sup> Street, First Floor  
Sacramento, California 95814

2. **PAYMENT TERMS:**

- ☐ *Monthly Flat Rate*                      ☐ *Quarterly Flat Rate*                      ☒ *One –Time Payment*  
☐ *Itemized Monthly or Quarterly Invoice*  
☐ *Advance Payment Not to Exceed \$ \_\_\_\_\_ or \_\_\_\_\_ % of Contract Amount*  
☐ *Reimbursement/Revenue*  
☐ *Other (Explain) (i.e. lump sum/deliverable)*

3. **CONDITIONS:**

- A. No payment shall be made in advance of services rendered.
- B. A request for payment must include an invoice with cost backup, such as, receipts for equipment or supplies, copies of subcontractor's invoice, deliverables as required by the Agreement, and written progress reports.
- C. Invoices shall identify charges and expenses authorized by this Agreement.
- D. Payments shall be made to Contractor for undisputed invoices. An undisputed invoice is an invoice submitted by the Contractor for services rendered and for which additional evidence is not required to determine its validity. Contractor will be notified via a Dispute Notification Form, within 15 working days of receipt of an invoice, if the State disputes the submitted invoice.
- E. Payment will be made in accordance with, and within the time specified, in Government Code Chapter 4.5, commencing with Section 927.
- F. Final invoice must be received by the Commission no later than 60 calendar days after the Agreement termination date.
- G. The State will pay for State or local sales or use taxes on the services rendered or equipment, parts or software supplied to the Commission pursuant to this Agreement. The State of



California is exempt from Federal excise taxes, and no payment will be made for any taxes levied on employee's wages.

4. **BUDGET DETAIL**

School districts shall be responsible for all options not included in the Department of General Services (DGS) contract 1-00-23-12 list of buses (except safety belts). School districts shall order and pay the vendor directly for the bus cost including taxes and any additional cost of options the school district has chosen. Invoices sent to the Energy Commission for payment to vendors shall be itemized and indicate separately the list of options included in the bus base price and the list of options added by the School District. The Energy Commission will pay no more than the bus cost identified plus applicable taxes.

**EXHIBIT C**  
**(Standard Agreement)**

**GENERAL TERMS AND CONDITIONS**

PLEASE NOTE: This page will not be included in the final agreement. The General Terms and Conditions will be included in the agreement by reference to the internet site: [www.dgs.ca.gov/contracts](http://www.dgs.ca.gov/contracts)

**EXHIBIT D**  
**Special Terms and Conditions**

1. **PROPOSAL INTERPRETATION:** This project shall be conducted in accordance with the terms and conditions of Commission Program Opportunity Notice (PON) number 600-03-603, titled, Katz Safe School Bus Clean Fuel Efficiency Demonstration Program, School District's application dated \_\_\_\_\_ and this Agreement. The School District's proposal is not attached, but is expressly incorporated by reference into this Agreement. In the event of conflict or inconsistency between the terms of this Agreement and the School District's proposal, this Agreement shall be considered controlling.
  
2. **CONTRACT MANAGEMENT:**
  - A. School District may change Project Manager but the Commission reserves the right to approve any substitution of the Project Manager.
  - B. The Commission may change the Contract Manager by notice given School District at any time signed by the Contract Officer.
  - C. Commission staff will be permitted to work side by side with School District's staff to the extent and under conditions that may be directed by the Commission Contract Manager. In this connection, Commission staff will be given access to all data, working papers, etc., which School District may seek to utilize.
  - D. School District will not be permitted to utilize Commission personnel for the performance of services, which are the responsibility of School District unless the Commission Contract Manager previously agrees to such utilization in writing and an appropriate adjustment in price is made. No charge will be made to School District for the services of Commission employees while performing, coordinating or monitoring functions.
  
3. **INDEMNIFICATION:**

The School District agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the School District in the performance of this Agreement and from any and all claims or losses occurring or resulting to any person, firm or corporation who may be injured or damaged, from the School District's use, operation, servicing and maintenance of the engines and school buses.
  
4. **EXCUSE FROM PERFORMANCE:**

The parties hereto shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by reason of circumstances beyond their control, including, but not limited to, strikes and other labor disputes, wars, civil commotion, natural calamity, fire, equipment breakdown, failures or damage due to collision, or if the Commission is prohibited by law, regulation, judicial or administrative ruling or if sufficient funding for the

program is not appropriated. In the event of any delay as aforesaid, the time for performance may be extended by mutual agreement for a period equal to the length of delay.

5. **STATEMENT OF COMPLIANCE:**

School Districts representative's signature affixed hereon and dated shall constitute a certification under the penalty of perjury under the laws of the State of California that the School District has, unless specifically exempted, complied with Government Code Section 12990 and California Code of Regulations, Title 2, Division 4, Chapter 5 in matters relating to the development, implementation, and maintenance of a non-discrimination program. School Districts agree not to unlawfully discriminate against any employee or applicants for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age (over forty).

6. **NONDISCRIMINATION CLAUSE:**

- A. During the performance of this Agreement, the School District and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40), or gender. The School District and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. The School District and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Sections 12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. The School District and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- B. The School District shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

7. **FUELING STATION STANDARDS:**

It shall be the responsibility of the School District to ensure that any fueling facility constructed or caused to be constructed in performance of this Agreement shall conform to all materials compatibility and recognized standards as may be required for each fuel type. The School District shall maintain a detailed itemization of and retain all records relating to all equipment purchases relative to such installation. Such records shall be maintained for the term of this Agreement and shall be available for inspection or audit at any reasonable time by the Commission or its designee. If the School District will use an existing private refueling station, it shall be the responsibility of the School District to ensure that the station conforms to all materials compatibility and recognized standards as may be required. The School District shall compile and maintain all records relating to equipment purchases relative to such installation for the term of this Agreement.

8. **INSURANCE:**

A. If the School District has purchased insurance, the School District shall:

- 1) Add the Commission as additional insured to its applicable liability insurance policy or policies.
- 2) Furnish to the State a certificate of insurance stating that there is general liability insurance presently in effect for the School District of not less than \$5,000,000.00 per occurrence for bodily injury and property damage liability, combined, on an annual basis during the term of this Agreement.
- 3) Obtain and provide the Commission with current certificate(s) of insurance which must include the following two provisions:
  - a. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to DGS and the Commission.
  - b. The State of California, its officers, agents, employees and servants are included as additional insured, but only insofar as the operations under this Agreement are concerned.
- 4) Agree that the bodily injury and property damage liability insurance herein provided for shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, the School District agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of DGS and the School District agrees that no work or services shall be performed prior to the giving of such approval. In the event the School District fails to keep in effect at all times insurance coverage as herein provided, the State may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

B. If the School District is self-insured or partially self-insured, the following applies in addition to the above requirements:

- 1) The School District represents and warrants that the full faith and credit of the School District is pledged for the purpose of providing automotive and general liability coverage for the School District and each of its officers, agents, and employees during the term of this Agreement.
- 2) The School District certifies that the School District self-administers, defends, settles and pays third-party claims for bodily injury, personal injury, death and/or property damage. Protection under this program is warranted to meet or exceed \$5,000,000.00 per occurrence.

C. All Certificates of Insurance must:

- 1) Provide the School District's name, as indicated on this Agreement;

- 2) Provide the Agreement number as referenced in this Agreement;
- 3) Provide the name of the Program in which the School District is participating;
- 4) Provide a contact person for questions regarding the Certificate of Insurance, and telephone number;
- 5) Be mailed directly to:

California Energy Commission  
**Contracts Office**  
Elizabeth Stone, Contract Officer  
1516 Ninth Street, MS-18  
Sacramento, CA 95814

D. Questions regarding Certificates of Insurance should be directed to the Commission's Contracts Office at (916) 654-4392.

9. **NATIONAL LABOR RELATION BOARD CERTIFICATION:**

The School District, by signing this Agreement, swears under penalty of perjury that no more than one final un-appealable finding of contempt of court by a Federal Court has been issued against the School District within the immediately preceding two year period because of the School District's failure to comply with an order of a Federal Court which directs the School District to comply with an order of the National Labor Relations Board (Public Contract Code Section 10296).

10. **OWNERSHIP OF THE VEHICLES:**

In accordance with Education Code Section 17911.5(a), title to the bus awarded under this Agreement shall be in the name of the School District. The School District agrees not to dispose of any School Bus awarded during the Program for a period of five (5) years.

11. **MAINTENANCE FACILITIES:**

The School District will provide adequate facilities and equipment to properly maintain the school buses received under this program, including the ability to lift the vehicles sufficiently to perform proper inspection and maintenance. The School District facility shall be modified to conform to any CNG regulation in place.

12. **DATA COLLECTION:**

If required by the Commission, the School District will collect, process, compile, and send to the Commission the data identified in the included Work Statement (Paragraph III, Task 5) of Exhibit A. The School District will establish and maintain adequate procedures to collect and process this data.

13. **FUEL:**

If the School District operates alternative fuel school buses, the school district is responsible to install and operate the alternative fueling station unless the fueling station is a public station. All buses awarded under this program will use fuels, fluids, transmission oil, crankcase oil, lubricants, etc., as specified by manufacturers in each manufacturer's owner and service manuals.

14. **OWNERSHIP PERIOD:**

School district shall assume full ownership of the school bus upon delivery and retain ownership for a period of five (5) years.

15. **REPORTS:**

A. **Progress and Final Reports:** The School District shall prepare progress reports summarizing all activities conducted by School District to date on a schedule as provided in Exhibit A. At the conclusion of this Agreement, the School District shall prepare a comprehensive Final Report, on a schedule as provided in Exhibit A.

B. **Title:** School District's name shall only appear on the cover and title page of reports as follows:

California Energy Commission  
Project Title  
Contractor Number  
By (School District)

C. **Ownership:** Each report shall become the property of the Commission.

D. **Non-Disclosure:** School District will not disclose data or disseminate the contents of the final or any progress report without written permission of the Commission Contract Manager, except as provided in E, below. Permission to disclose information on one occasion or public hearings held by the Commission relating to the same shall not authorize School District to further disclose and disseminate the information on any other occasion. School District will not comment publicly to the press or any other media regarding its report, or Commission's actions on the same, except to Commission staff, School District's own personnel involved in the performance of this Contract, or at public hearing, or in response to questions from a legislative committee. Notwithstanding the foregoing, in the event any public statement is made by the Commission or any other party, based on information received from the Commission as to the role of School District or the content of any preliminary or final report, School District may, if it believes the statement to be incorrect, state publicly what it believes is correct.

E. **Disclosure:** Ninety days after any document submitted by the School District is deemed by the Contract Manager to be a part of the public records of the State, School District may, if it wishes to do so at its own expense, publish or utilize a report or written document but shall include the following legend:

"LEGAL NOTICE"

**"This report was prepared as a result of work sponsored by the California Energy Commission. It does not necessarily represent the views of the Energy Commission, its employees, or the State of California. The Energy Commission, the State of California, its employees, contractors, and subcontractors make no warranty, express or implied, and assume no legal liability for the information in this report; nor does any party represent that the use of this information will not infringe upon privately owned rights."**

16. **ASSIGNMENT:**

Without the written consent of the State, this Agreement is not assignable by the School District, either in whole or in part, to any third party. This includes but is not limited to, any individual, any contractor or contract firm, any other school district or merged school district, or any other consortium or joint powers authority.

17. **PUBLIC HEARINGS:** If public hearings on the scope of work are held during the period of the Contract, the School District will make available to testify the personnel assigned to this Agreement. The Commission will reimburse the School District for compensation and travel of the personnel at the Contract rates for the testimony which the Commission requests.

18. **DISPUTES:** In the event of a Contract dispute or grievance between the School District and the Commission, both parties shall follow the following two-step procedure. The School District shall continue with the responsibilities under this contract during any dispute.

A. Commission Dispute Resolution

The School District shall first discuss the problem informally with the Commission Contract Manager. If the problem cannot be resolved at this stage, the School District must direct the grievance together with any evidence, in writing, to the Commission Contracts Officer. The grievance must state the issues in the dispute, the legal authority or other basis for the School District's position and the remedy sought. The Commission Contracts Officer and the Program Office Manager must make a determination on the problem within ten (10) working days after receipt of the written communication from the School District. The Contracts Officer shall respond in writing to the School District, indicating a decision and explanation for the decision. Should the School District disagree with the Contracts Officer decision, the School District may appeal to the second level.

The School District must prepare a letter indicating why the Contracts Officer's decision is unacceptable, attaching to it the School District's original statement of the dispute with supporting documents, along with a copy of the Contracts Officer's response. This letter shall be sent to the Commission's Executive Director within ten (10) working days from receipt of the Contracts Officer's decision. The Executive Director or designee shall meet with the School District to review the issues raised. A written decision signed by the Executive Director or designee shall be returned to the School District within twenty (20) working days of receipt of the School District's letter. The Executive Director may inform the Commission of the decision at a Commission business meeting. Should the School District disagree with the Executive Director's decision, the School District may appeal to the Commission at a regularly scheduled business meeting. School District will be provided with the current procedures for placing the appeal on a Commission Business Meeting Agenda.



B. Binding Arbitration

Should the Commission's Dispute Resolution procedure above fail to resolve a contract dispute or grievance to the satisfaction of the School District, the School District and Commission mutually may elect to have the dispute or grievance resolved through binding arbitration. If one party does not agree, the matter shall not be submitted to arbitration. The arbitration proceeding shall take place in Sacramento County, California, and shall be governed by the commercial arbitration rules of the American Arbitration Association (AAA) in effect on the date the arbitration is initiated. The dispute or grievance shall be resolved by one (1) arbitrator who is an expert in the particular field of the dispute or grievance. The arbitrator shall be selected in accordance with the aforementioned commercial arbitration rules. If arbitration is mutually decided by the parties, arbitration is in lieu of any court action and the decision rendered by the arbitrator shall be final (not appealable to a court through the civil process). However, judgment may be entered upon the arbitrator's decision and is enforceable in accordance with the applicable law in any court having jurisdiction over this Agreement. The demand for arbitration shall be made no later than six (6) months after the date of the contract's termination, despite when the dispute or grievance arose, and despite the applicable statute of limitations for a suit based on the dispute or grievance. If the parties do not mutually agree to arbitration, the parties agree that the sole forum to resolve a dispute is state court.

The cost of arbitration shall be borne by the parties as follows:

- 1) The AAA's administrative fees shall be borne equally by the parties;
- 2) The expense of a stenographer shall be borne by the party requesting a stenographic record;
- 3) Witness expenses for either side shall be paid by the party producing the witness;
- 4) Each party shall bear the cost of its own travel expenses;
- 5) All other expenses shall be borne equally by the parties, unless the arbitrator apportions or assesses the expenses otherwise as part of his or her award.

At the option of the parties, any or all of these arbitration costs may be deducted from any balance of Contract funds. Both parties must agree, in writing, to utilize contract funds to pay for arbitration costs.

19. **TERMINATION:**

The parties agree that because the Commission is a state entity and contracts on behalf of all Californian rate payers, it is necessary for the Commission to be able to terminate, at once, upon the default of School Districts and to proceed with the work required under the Agreement in any manner the Commission deems proper. The School District specifically acknowledges that the unilateral termination of the Agreement by the Commission under the terms set forth below is an essential term of the Agreement, without which the Commission would not enter into the Agreement. The School District further agrees that upon any of the events triggering the unilateral termination the Agreement by the Commission, the Commission has the sole right to terminate the Agreement, and it would constitute bad faith of the School District to interfere with the immediate termination of the Agreement by the Commission.

This Agreement may be terminated for any reason set forth below.

A. With Cause

In the event of any breach by the School District of the conditions set forth in this Agreement, the Commission may, without prejudice to any of its legal remedies, terminate this Agreement for cause upon five (5) days written notice to the School District. In such event, Commission shall pay School District only the reasonable value of the services theretofore rendered by School District, as may be agreed upon by the parties or determined by a court of law, but not in excess of the contract maximum payable. "Cause" includes without limitation:

- 1) Failure to perform or breach of any of the terms or covenants at the time and in the manner provided in this Agreement; or
- 2) School District is not able to pay its debts as they become due and/or School District is in default of an obligation that impacts his ability to perform under this Agreement; or
- 3) It is determined after notice and hearing by the Commission or the Executive Director that gratuities were offered or given by the School District or any agent or representative of the School District, to any officer or employee of the Commission, with a view toward securing an Agreement or securing favorable treatment with respect to awarding or amending or making a determination with respect to performance of the Agreement; or
- 4) Significant change in Commission policy such that the work or product being funded would not be supported by the Commission; or
- 5) Reorganization to a business entity unsatisfactory to the Commission; or
- 6) The retention or hiring of subcontractors, or the replacement or addition of personnel that fail to perform to the standards and requirements of this Agreement.

B. Without Cause

The Commission may, at its option, terminate this Agreement without cause in whole or in part, upon giving thirty (30) days advance notice in writing to the School District. In such event, the School District agrees to use all reasonable efforts to mitigate the School District's expenses and obligations hereunder. Also, in such event, the Commission shall pay the School District for all satisfactory services rendered and expenses incurred within 30 days after notice of termination which could not by reasonable efforts of the School District have been avoided, but not in excess of the maximum payable under this Agreement.

20. **WAIVER:** No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law. The failure of the Commission to enforce at any time any of the provisions of this Contract, or to require at any time performance by School District of any of the provisions, shall in no way be construed to be a waiver of those provisions, nor in any way affect the validity of this Contract or any part of it or the right of the Commission to thereafter enforce each and every such provision.
21. **CAPTIONS:** The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference and do not define, limit, or extend the scope or intent of the clauses.

22. **PRIOR DEALINGS, CUSTOM OR TRADE USAGE:** In no event shall any prior course of dealing, custom or trade usage modify, alter, or supplement any of these terms.

23. **NOTICE:** Notice to either party may be given using the following delivery methods, certified mail, Federal Express, United Parcel Service, or personal delivery, providing evidence of receipt, to the respective parties identified on page one of this Agreement.

Delivery by fax or e-mail is not considered notice for the purpose of this Agreement. Notice shall be effective when received, unless a legal holiday for the State commences on the date of the attempted delivery. In which case, the effective date shall be postponed 24 hours, or whenever the next business day occurs.

24. **STOP WORK:** The Commission Contract Officer may, at any time, by written notice to School District, require School District to stop all or any part of the work tasks in this Agreement. Stop Work Orders may be issued for reasons such as a project exceeding budget, standard of performance, out of scope work, delay in project schedule, misrepresentations and the like.

A. Compliance Upon receipt of such stop work order, School District shall immediately take all necessary steps to comply therewith and to minimize the incurrence of costs allocable to work stopped.

B. Equitable Adjustment An equitable adjustment shall be made by Commission based upon a written request by School District for an equitable adjustment. Such adjustment request must be made by School District within thirty (30) days from the date of receipt of the stop work notice.

C. Revoking a Stop Work Order School District shall resume the stopped work only upon receipt of written instructions from the Commission Contract Officer canceling the stop work order.

25. **INTERPRETATION OF TERMS:** Any inconsistency between the terms of any exhibits shall be resolved in favor of Exhibit A, Scope of Work and Exhibit D, Special Terms and Conditions.

EXHIBIT E  
NAMES AND ADDRESSES OF AGREEMENT REPRESENTITIVES

<b>Commission Contract Manager:</b>  Contract Manager, MS-XX California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone (916) 654-XXXX Fax # e-mail:	<b>Contractor Project Manager:</b>  Name: School District: Address: City, State, Zip Phone: Fax: e-mail
<b>Commission Contract Officer:</b>  Elizabeth Stone, MS-18 California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: (916) 654- 5125 Fax: (916) 654-4423 e-mail: <a href="mailto:estone@energy.state.ca.us">estone@energy.state.ca.us</a>	<b>Contractor Contract Officer:</b>  (Name) (Contractor Name) Address  Phone: Fax: e-mail
<b>Invoices, Progress Reports and Non-Confidential Deliverables to:</b>  Accounting Office, MS-2 California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: 916-654-4419  e-mail: <a href="mailto:awilliams@energy.state.ca.us">awilliams@energy.state.ca.us</a>	
<b>Legal Notices:</b>  Cheryl Raedel, MS-18 Manager, Contracts Office California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: 916-654-4392 Fax: 916-654-4423 e-mail: <a href="mailto:craedel@energy.state.ca.us">craedel@energy.state.ca.us</a>	(contractor legal person)